

APPLICANT(S): LEVY, Shmuel  
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### REMARKS

The present response is intended to be fully responsive to all points of objection and/or rejection raised by the Examiner and is believed to place the application in condition for allowance. Favorable reconsideration and allowance of the application is respectfully requested.

Applicant asserts that the present invention is new, non-obvious and useful. Prompt consideration and allowance of the claims is respectfully requested.

### Status of Claims

Claims 1-32 are pending in the application. Claims 1-32 have been rejected. Claims 1, 6, 9, 16, 19, 25 and 28 have been amended. The amendments to the claims are well supported in the description of the invention.

Applicant respectfully asserts that the amendments to the claims add no new matter.

### CLAIM REJECTIONS

#### 35 U.S.C. § 101 Rejections

In the Office Action, the Examiner rejected claims 28-32 under 35 U.S.C. § 101, claiming that the rejected claims pertain solely to instructions that are not embodied in any computer-readable media.

Claim 28 has been amended to overcome this rejection. Claims 29-32 depend from amended claim 28, directly or indirectly and therefore are rendered allowable as well. Accordingly, the Examiner is requested to withdraw the rejection under U.S.C. § 101.

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### 35 U.S.C. § 102 Rejections

In the Office Action, the Examiner rejected claims 1, 4, 6, 7, 9, 11, 13, 16, 17, 25, 26, 28 and 31 under 35 U.S.C. § 102(b), as being anticipated by Greenstein et al. (US 6,131,016, the '016 patent). Applicant respectfully traverses this rejection in view of the remarks that follow.

As to independent claim 1, as amended, the '016 patent discloses: "In one embodiment of the present invention the base station performs selection diversity, that is selects some subset of the multiple antennae for transmitting the information signals to the wireless communication terminal rather than using all of the available antennae" (Col. 1, lines 63-67)(emphasis added). The '016 fails to disclose all of the limitations of claim 1, as amended. Inter alia, the '016 patent does not disclose or suggest "adaptively and separately selecting a coding mode of each orthogonal frequency division multiplexing sub-carrier symbol of a data stream in an orthogonal frequency division multiplexing channel according to a received channel state information that relates to the orthogonal frequency division multiplexing sub-carrier" and "wherein said coding mode is selectable so that said sub-carrier is able to support the sensitivity required for transmitting in the selected mode", as recited in rejected claim 1, as amended. For a reference to anticipate a claim, the reference must teach all elements of the claim. Therefore, the '016 patent cannot anticipate claim 1, as amended..

As to independent claims 6, 9, 16, 19, 25 and 28, as amended, the arguments raised above with respect to claim, as amended, are also applicable here. Therefore, applicant asserts that independent claims 1, 6, 9, 19, 25 and 28 are allowable.

As to dependent claims 4, 7, 11, 13, 16, 17, 26 and 31 they depend, directly or indirectly, from amended independent claims 1, 6, 9, 19, 25 and 28 and therefore include all the limitations of those claims. Therefore, Applicant respectfully asserts that claims 4, 7, 11, 13, 16, 17, 26 and 31 are likewise allowable. Accordingly, Applicant respectfully requests that the Examiner withdraw the rejections of amended independent claims 1, 6, 16, 9, 19, 25 and 28 and of claims 4, 7, 11, 13, 16, 17, 26 and 31 dependent thereon.

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### 35 U.S.C. § 103 Rejections

In the Office Action, the Examiner rejected claims 2, 3, 5, 8, 12, 14, 15, 18, 21, 23, 24, 27, 29, 30 and 32 under 35 U.S.C. § 103(a), as being unpatentable over Greenstein et al (the '016 patent) in view of the Applicant's background.

Applicant respectfully traverses the rejection of claims 2, 3, 5, 8, 12, 14, 15, 18, 21, 23, 24, 27, 29, 30 and 32 under 35 U.S.C. § 103(a), as being unpatentable over the '016 patent in view of the Applicant's background.

The '016 patent has been discussed above, with respect to claim 1 as rejected under 35 U.S.C. § 103(b). This discussion is applicable, mutatis mutandis, also here. Accordingly, applicant asserts that the '016 patent fails to disclose all the limitations of independent claims 1, 6, 9, 16, 19, 25 and 28 and specifically "adaptively and separately selecting a coding mode of each orthogonal frequency division multiplexing sub-carrier symbol of a data stream in an orthogonal frequency division multiplexing channel according to a received channel state information that relates to the orthogonal frequency division multiplexing sub-carrier". The applicant's background is also silent as to above cited limitation and therefore cannot cure the deficiencies of the '016 patent. An obviousness rejection requires a teaching or a suggestion by the relied upon prior art of all the elements of a claim (M.P.E.P. §2142). The rejected claims depend from, directly or indirectly, independent claims 1, 6, 9, 16, 19, 25 and 28 respectively and therefore include all their limitations. Accordingly, Applicant respectfully asserts that this rejection should be withdrawn.

In the Office Action, the Examiner rejected claims 10 and 20 under 35 U.S.C. § 103(a), as being unpatentable over the '016 patent and further in view of Wu et al (US 6,985,434, the '434 patent).

Applicant respectfully traverses the rejection of claims 10 and 20 under 35 U.S.C. § 103(a), as being unpatentable over the '016 patent in view of the '434 patent.

The '016 patent has been discussed above, with respect to claim 1 as rejected under 35 U.S.C. § 103(b). This discussion, mutatis mutandis, is applicable also here. Accordingly, applicant asserts that the '016 patent fails to disclose all the limitations of independent claims

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9 and 19 and specifically "adaptively and separately selecting a coding mode of each orthogonal frequency division multiplexing sub-carrier symbol of a data stream in an orthogonal frequency division multiplexing channel according to a received channel state information that relates to the orthogonal frequency division multiplexing sub-carrier".

The '434 patent discloses: "An adaptable orthogonal frequency-division multiplexing system (OFDM) that uses a multiple input multiple output (MIMO) to having OFDM signals transmitted either in accordance with time diversity to reducing signal fading or in accordance with spatial diversity ..." (Abstract) (emphasis added). Thus, the '434 is also silent as to the above cited limitation and therefore can not cure the deficiencies of the '016 patent. Moreover, the '434 patent teaches away from the cited limitation. An obviousness rejection requires a teaching or a suggestion by the relied upon prior art of all the elements of a claim (M.P.E.P. §2142). The rejected claims depend from, directly or indirectly, independent claims 9 and respectively and therefore include all their limitations. Accordingly, Applicant respectfully asserts that this rejection should be withdrawn.

In the Office Action, the Examiner rejected claims 19 and 22 under 35 U.S.C. § 103(a), as being unpatentable over the '016 patent.

Applicant respectfully traverses the rejection of claims 19 and 22 under 35 U.S.C. § 103(a), as being unpatentable over the '016 patent.

The '016 patent has been discussed above, with respect to claim 1 as rejected under 35 U.S.C. § 103(b). This discussion, mutatis mutandis, is applicable also here. Accordingly, applicant asserts that the '016 patent fails to disclose all the limitations of independent claim 19 and specifically "wherein said coding mode is selectable so that said sub-carrier is able to support the sensitivity required for transmitting in the selected mode". An obviousness rejection requires a teaching or a suggestion by the relied upon prior art of all the elements of a claim (M.P.E.P. §2142). The '016 patent does not disclose or suggest all the limitations of claim 19 and therefore claim 19 is not obvious in view of the '016 patent. Claim 22 depends from claim 19 and therefore includes all its limitations.

Accordingly, Applicant respectfully asserts that this rejection should be withdrawn.

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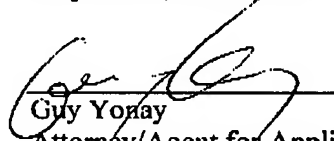
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In view of the foregoing amendments and remarks, the pending claims are deemed to be allowable. Their favorable reconsideration and allowance is respectfully requested.

Should the Examiner have any question or comment as to the form, content or entry of this Amendment, the Examiner is requested to contact the undersigned at the telephone number below. Similarly, if there are any further issues yet to be resolved to advance the prosecution of this application to issue, the Examiner is requested to telephone the undersigned counsel.

Please charge any fees associated with this paper to deposit account No. 50-3355.

Respectfully submitted,



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Dated: August 2, 2007

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